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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/407,531	09/28/1999	ALAN NEWMAN	357802000400	2877

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EXAMINER

CHAVIS, JOHN Q

ART UNIT	PAPER NUMBER
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2124

DATE MAILED: 07/02/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/407,531

Applicant(s)

NEWMAN ET AL.

Examiner

John Q. Chavis

Art Unit

2124



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 8, 9, 14, 15 and 19-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-9, 14-15 and 19-31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 16 April 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____.

Art Unit: 2124

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-3, 8-9, 14-15 and 19-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Hopwood et al. (6,223,343).

Claims

1. (Amended) A release control method for providing early deployment releases of a software system, the early deployment releases containing support for new features and platforms, the method comprising the steps of:

Hopwood

See the title, abstract, col. 14 lines 30-41, which indicates that support is provided for different systems and to manage and update configuration (new features and platforms) information, col. 15 lines 4-13. Also, see col. 2 lines 6-8, which further indicates that new features (creating...) and platforms (operating systems...) are supported via new releases.

Art Unit: 2124

and that the features are tested.

a. providing a an early development branch of the software system that is designated for incorporation of one or more software modules providing support for new features and platforms;

See the developer branch (items 90,96, and 104) in fig. 6, col. 6 lines 29-32 and col. 2 lines 9-10, which indicates that new features are tested. See also col. 20 lines 25-33.

b. receiving, from a plurality of integration units, a plurality of pre-tested software modules, wherein each of the pre-tested software modules comprises one or more new features or supports one or more new platforms;

See the BLDISS branch, col. 2 lines 9-25, col. 3 lines 28-40, col. 8 lines 40-46, which provides support for the pre-tested features.

c. committing the pre-tested software modules for new features and platforms into the early development branch; and

See the issuance processor in col. 3 lines 60-67.

d. using the early development branch, generating a new early development release containing pre-tested software modules for new features and platforms.

Hopwood's Issuance Control Member generates an early development release, via col. 8 lines 40-46.

2. (Amended) The release control method of claim 1 comprising the additional step of repeating steps c and d on a regular recurring basis for a fixed number of cycles.

In reference to the repeated fixed scheduling, see col. 17 lines 13-37 and col. 3 lines 33-41.

3. (Amended) The release control method of claim 1 wherein the pre-tested software module is received at a pre-integration branch that is separate from the early development branch, and wherein the committing step comprises committing pre-tested software modules for new features and platforms from a pre-integration branch into the early development branch.

As per the pre-integration branch, see the sub repository in col. 15 lines 42-65 and lines 10-26, which indicates that RMS is used to store, retrieve and distribute changes. The distribution functions indicate that the stored files are selected and pre-tested from earlier implementations.

Claims 8-9 and 23 are rejected as merely the system and computer readable medium versions of claims 1 and 3 above. Therefore, see figs. 6 and 7.

Art Unit: 2124

In reference to claims 14-15, 19-22, 24-31, see the rejection of claims 2 and 3, *supra*. Furthermore, in view of the testing prior to pre-integration, see the support platform in col. 2 lines 3-13, which evaluates (selects, tests and releases based on test results) the new programs use for the entire system, prior to development. Note the purpose of all of the testing above is inherently utilized to enable a release and commitment decision.

Conclusion

3. Applicant's arguments with respect to claims 1-3, 8-9, 14-15 and 19-31 have been considered but are moot in view of the new ground(s) of rejection, indicated above.
4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 2124

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Q. Chavis whose telephone number is 703-305-9665. The examiner can normally be reached on 8:30 am-5:00 pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on 703-305-9662. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-3900.



Jqc
June 23, 2003



JOHN CHAVIS
PATENT EXAMINER
ART UNIT 2124